

1646 IFW

**In The United States Patent and Trademark Office****In re application of:** James P. Elia**Serial No.:** 09/064,000**Group No.:** 1646**Filed:** April 21, 1998**Examiner:** Elizabeth C. Kemmerer, Ph.D.**For:** METHOD AND APPARATUS FOR INSTALLATION OF DENTAL IMPLANT**MAIL STOP NON-FEE AMENDMENT****Commissioner for Patents****P.O. Box 1450****Alexandria, VA 22313-1450****CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Box NON-FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22213-1450 on:

July 21, 2005Michael A. White 7/21/05

Signature

Date of Signature

1. Transmitted herewith, in response to the June 21, 2005, Supplemental Detailed Action, is an Amendment for this application.

2. **Extension of Term**

<u>Extension (months)</u>	<u>Fee for small entity</u>	<u>Fee for non-small entity</u>
one month	\$ 60.00	\$ 120.00
two months	\$ 225.00	\$ 450.00
three months	\$ 510.00	\$ 1,020.00
four months	\$ 795.00	\$ 1,590.00
five months	\$ 1,080.00	\$ 2,160.00

- a) ☐ An extension is hereby requested for ____ month(s) with a fee of \$_____.

An extension for ____ months has already been secured and the fee paid therefor of \$_____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$_____.

OR

- b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

3. Fee for Claims

The fee for claims has been calculated as shown below:

(column 1)		(column 2)		(column 3)	Small Entity	
	Claims remaining after amendment		Highest no. previously paid for	Present extra	Rate	Additional fee
Total	* 13	Minus	** 189	= 0	X 25 =	\$ 000.00
Indep.	* 1	Minus	** 5	= 0	x 100 =	\$ 000.00
First presentation of multiple dep. Claim					+ 180 =	\$ ---
					Total	\$ 000.00
					Additional fee	\$ 000.00

* If the entry in Column 1 is less than entry in Column 2, write "0" in Column 3.

** If the "Highest no. previously paid for" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest no. previously paid for" IN THIS SPACE is less than 3, enter "3".

The "Highest no. previously paid for" (total or indep.) is the highest number found in the appropriate box in Column 1 of a prior amendment or the number of claims originally filed.

Total additional fees required: \$ - 0 - .

Date: July 21, 2005


Signature of attorney

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: James P. Elia)
Serial No.: 09/064,000)
Filed: April 21, 1998)
For: METHOD AND APPARATUS)
FOR INSTALLATION OF)
DENTAL IMPLANT)

Group Art Unit: 1646

Examiner: Elizabeth C. Kemmerer, Ph.D.

CERTIFICATE OF MAILING

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July 21, 2005
Guadalupe R. White 7/21/05

Signature

Date

AMENDMENT

Mail Stop NON-FEE AMENDMENT
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

Sir:

This amendment is responsive to the Supplemental Detailed Action dated June 21, 2005 (hereinafter "21 June Action"). In such action, the objection to claims 382-388 was withdrawn, the finality of the October 18, 2004 Office Action was withdrawn, and Applicant's Petition requesting review of such objection was deemed to be moot. In addition, the rejections of claims 382-388 under 35 U.S.C. §101 and under 35 U.S.C. §112, first paragraph, were withdrawn. Applicant notes that no mention of the status of the appeal was set forth in the 21 June Action.

Now that the Petition has resolved the subject matter and claims under examination, the Examiner's attention is directed to Applicant's co-pending application, Serial No. 10/179,589,

filed June 25, 2002, which is a continuation-in-part of the instant application. The co-pending application contains claims drawn to a method of growing an artery in the body of a human patient by placing a cell, such as a stem cell, in such body.

In the 21 June Action, claims 383 and 384 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite; claims 382-388 were rejected under 35 U.S.C. §102, as anticipated by the publication of Lutjen et al. (hereinafter "Lutjen"); and claims 382-388 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant requests favorable reconsideration and withdrawal of the above rejections in view of the presentation of amended claims and the accompanying remarks set forth below.

Applicant notes with appreciation the Examiner's expression of regret regarding the delay in acting upon the Petition. It is unfortunate that such action was delayed for over eight months from the date of the final rejection because not only does Applicant's potential term continue to erode, but due to the lack of response to the Petition, Applicant believed that there was no choice but to file a Notice of Appeal and a consequent Appeal Brief to avoid abandonment of the instant application. Applicant believed that a meaningful response could not be filed to the final rejection until the Petition was decided, and thus determined that filing an appeal was the sole route to avoid abandonment. Considering the amount of term erosion that has already occurred, Applicant desires to conclude the prosecution of the instant application in the timeliest manner possible. To this end, Applicant filed the instant amendment early within the three-month shortened statutory period for reply and seeks the timely cooperation of the Examiner in responding thereto. Applicant would appreciate a telephone call or any other communication to the undersigned attorney that could serve to expedite the prosecution.

The Examiner's attention is also directed to the fact that the instant application was filed on April 21, 1998 and claims priority back to April 27, 1993. In view of these filing dates, the instant application qualifies as "special." See MPEP 707.02 and 708.01(d)(I) in this regard. Thus, Applicant believes that prosecution within the guidelines of said MPEP sections is mandated. In this context, Applicant believes that the instant amendment does not create issues beyond those already raised by the Examiner because presently amended claim 382 and newly presented claims 389-394 are more limited than original claim 382, which has already been acted upon by the Examiner. Accordingly, Applicant submits that raising any new technical issues against these new, limited claims would be unwarranted. Rather, Applicant believes that any further actions must follow the tenets of compact prosecution, especially as required by MPEP 707.02.

In support of Applicant's belief that the claimed invention is in full compliance with all statutory/regulatory provisions required for the obtention of a patent grant, Applicant furnished various Declarations during the course of the prosecution, including those of Drs. Richard Heuser and Andrew E. Lorincz mentioned in the 21 June Action. Such Declarations were furnished in an attempt to expedite the prosecution of the application and reduce any potential new issues. Thus, it further appears that it would be inappropriate for the Patent and Trademark Office (hereinafter "PTO") to enter any new grounds of rejection at this late stage of prosecution, especially in view of the "special" status of the application.